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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 MELANIE MacNIVEN,

No. CIV S-04-2401-GEB-CMK

12 Plaintiff,

13 vs.

FINDINGS AND RECOMMENDATIONS

14 JO ANNE B. BARNHART,  
Commissioner of Social Security,

15 Defendant.  
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17 \_\_\_\_\_/

18 Plaintiff, who is proceeding with retained counsel, brings this action for judicial  
19 review of a final decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g).  
20 Pursuant to the stipulation of the parties and the court's September 23, 2005, order, defendant's  
21 response to plaintiff's motion for summary judgment is due by October 31, 2005.<sup>1</sup>

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25 <sup>1</sup> The September 23, 2005, order incorrectly indicated a new due date for  
26 defendant's response to plaintiff's complaint. In fact, the stipulation concerned the time for  
defendant to respond to plaintiff's motion for summary judgment.

1 On October 31, 2005, the parties filed a stipulation that this case be remanded for  
2 further proceedings. Good cause appearing therefor, the court will recommend remand.

3 Based on the foregoing, the undersigned recommends this case be remanded  
4 pursuant to sentence four of 42 U.S.C. § 405(g), that judgment be entered accordingly, and that  
5 all pending motions be denied as moot.

6 These findings and recommendations are submitted to the United States District  
7 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days  
8 after being served with these findings and recommendations, any party may file written objections  
9 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
10 and Recommendations." Failure to file objections within the specified time may waive the right  
11 to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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14 DATED: November 2, 2005.

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17 **CRAIG M. KELLISON**  
18 UNITED STATES MAGISTRATE JUDGE  
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